

REMARKS

Status of the Claims.

Claims 1-4, 6-13, 16-18, 21-26, 71, 79, and 82-89 are pending with entry of this amendment, no claims being cancelled and no claims being added herein. Claims 1 and 16 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*see, e.g.*, page 74, line 6).

35 U.S.C. §112, Second Paragraph.

Claims 1-4, 6-9, 16-19, and 21-26 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite because of the recitation of the term "stringent hybridization". Applicants have amended claims 1 and 16 herein to recite specific hybridization conditions thereby obviating this rejection.

35 U.S.C. §112, First Paragraph, Description Requirement.

Claims 1, 4, 6-13, 21-26, 71, 79, and 82-85 were rejected under 35 U.S.C. §112, first paragraph, as the subject matter was allegedly not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s) at the time the invention was filed, had possession of the claimed invention. In particular, the Examiner alleged that because the family of transcription factors encompasses a broad range of structurally different compounds that the metes and bounds of the term "stringent hybridization conditions" were unclear, the claims encompass widely varying structures for which the disclosure of the embodied polynucleotides is not representative.

Applicants note that claims 1 and 16 are amended herein to recite **particular stringent hybridization conditions**.

Moreover, Applicants note that the claims are relatively narrow, being directed to nucleic acids that hybridize to a reference nucleic acid under **particular** stringent conditions and that encode a transcription factor. Contrary to the Examiner's assertion, when taken with the stringent hybridization conditions recited in claims 1 and 16, the "transcription factor" language **does** not encompass a broad and diverse range of structurally different compounds.

Particular reference nucleic acid and amino acid sequences are provided. In addition, stringent hybridization conditions are defined in the specification, **and expressly recited in the**

claims. Numerous sequences meeting the limitations of claims 1 and 16 (and new claims 86-89) are readily identified.

The scope of the pending claims thus corresponds simply to that subject matter that one of ordinary skill in the art would perceive the present inventors to be in possession of given the disclosure provided in the specification.

Accordingly the claims, as amended herein meet the Written Description requirement and the rejection of claims 1, 4-14, 16, 20-26, 71, 79, 82, 83, 84, and 85 under 35 U.S.C. §112, first paragraph, should be withdrawn.

35 U.S.C. §102.

Claims 1, 2, 6-14, 21-26, 79, and 82-87 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Kholá *et al.* (U.S. Patent 5,789,200).

Applicants note with appreciation the Examiner's comments regarding MPEP §§2308.01 and 2308.03 pertaining to interference practice. The Examiner will appreciate, however, that the question of interfering subject matter depends on the scope of the claims deemed otherwise allowable.

Accordingly upon an indication of otherwise allowable subject matter, Applicants will provide a Declaration under 37 C.F.R. §1.131 or an Interference Petition as appropriate depending upon the subject matter deemed otherwise allowable.

In view of the foregoing, the issuance of a formal Notice of Allowance or an indication of allowable subject matter is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,



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